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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,259	06/30/2003	James Harold Gray	ATT02329	2777

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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

EXAMINER	
SALCE, JASON P	

ART UNIT	PAPER NUMBER
2421	

MAIL DATE	DELIVERY MODE
12/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/611,259	GRAY ET AL.	
	Examiner	Art Unit	
	Jason P. Salce	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 September 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-20,40-50 and 69-78* is/are pending in the application.

4a) Of the above claim(s) *1-10,21-39,51-68 and 79-86* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-20,40-50 and 69-78* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 9/17/2008 have been fully considered but they are not persuasive.

Applicant has amended the claims, however, the claims still read on the prior art of record (**see updated rejection below**).

Applicant argues that the newly recited claim limitation, "wherein the hot key signal causes instructions to present for display an on-screen image overlaid on the video content, and wherein the on-screen image indicates availability of the alternate content" is not met by the Watts reference.

The Examiner disagrees and notes Column 3, Line 56 through Column 4, Line 3 for Watts teaching displaying primary video content and an on-screen image concurrently on a display screen, thereby teaching that the subsidiary data/on-screen image is overlaid on the video content/primary content. Watts further teaches at Column 4, Lines 23-33 that the subsidiary data/on-screen image can contain different types of data that can be presented to user while viewing the primary video content, therefore teaching that the on-screen image indicates availability of the alternate content, by the displayed subsidiary data indicating to the viewer additional biographical information regarding the actors, guests or participants of the program. Further note Column 9, Lines 6-19 for hot key signal/tag data being used to present for display subsidiary data/on-screen images overlaid on the video content.

Election/Restrictions

This application contains claims 1-10, 21-39, 51-68 and 79-86 drawn to an invention nonelected without traverse in the reply filed on 4/7/2008. A complete reply to this rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. This restriction requirement is FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-13, 15-17, 40, 42-43, 45-47, 69-71 and 73-75 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Watts et al. (U.S. Patent No. 6,324,694).

Referring to claim 11, Watts discloses determining whether to supply alternate content to one or more users of an interactive television service that provides video content through a content signal (**see Column 4, Lines 34-46 for determining to transmit alternate/subsidiary data prior to transmission of the television program (*primary content*) and Column 2, Line 63 through Column 3, Line 16 for transmitting the television program content through a content signal**), the alternate content to be cached on a terminal device located at a premises of the user (**see Column 4, Lines 62-65 storing the alternate/subsidiary data**).

Watts also discloses that responsive to determining to supply the alternate content to the user of the interactive television service (**see above for transmitting primary and subsidiary content to a viewer**), sending the alternate content to the terminal device located at the premises of the user (**see Column 4, Lines 34-46 and Lines 62-65 for transmitting the subsidiary content to the viewer**).

Watts also discloses generating a hot key signal indicating availability of the alternate content (**see Column 3, Lines 46-55 for the subsidiary data control 135 generating subsidiary data to transmit with primary content data to the viewer**) and inserting the hot key signal into a content signal transmitted to the user from the interactive television service provider (**see Column 7, Lines 30-44 for adding a tag/hot key signal to the transmitted television program in order for the tag to be matched with the proper alternate/subsidiary data for display with the transmitted television program**) via a network with which the user and the interactive television service provider are connected (**see Column 10, Lines 52-67**).

Watts also discloses that the hot key signal causes instructions to present for display an on-screen image overlaid on the video content, and wherein the on-screen image indicates availability of the alternate content (**Column 3, Line 56 through Column 4, Line 3 for Watts teaching displaying primary video content and an on-screen image concurrently on a display screen, thereby teaching that the subsidiary data/on-screen image is overlaid on the video content/primary content and further note Column 4, Lines 23-33 that the subsidiary data/on-screen image can contain different types of data that can be presented to user while viewing**

the primary video content, therefore teaching that the on-screen image indicates availability of the alternate content, by the displayed subsidiary data indicating to the viewer additional biographical information regarding the actors, guests or participants of the program and further note Column 9, Lines 6-19 for hot key signal/tag data being used to present for display subsidiary data/on-screen images overlaid on the video content).

Referring to claim 12, Watts also discloses determining whether to supply alternate content to the user of an interactive television service is based on information supplied by a provider of the video content (**see again Column 7, Lines 30-44 for transmitting a tag that is used determine what alternate content to obtain and present**).

Referring to claim 13, Watts also discloses that determining whether to supply alternate content to user of an interactive television service is based on information generated by the interactive television service provider (**see the rejection of claim 12**).

Referring to claim 15, Watts discloses that the alternate content is related to content currently being viewed (**see Column 4, Lines 24-27**).

Referring to claims 16-17, Watts discloses that the network comprises either a cable network or a satellite network (**see Column 10, Lines 52-67**).

Referring to claims 40, 42-43 and 45-47, see the rejection of claims 11-13 and 15-17, respectively.

Referring to claims 69-71 and 73-75, see the rejection of claims 11-13 and 15-17, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18-20, 41, 48-50 and 76-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watts et al. (U.S. Patent No. 6,324,694).

Referring to claims 18-20, Watts discloses all of the limitations of claim 11, but fails to teach the use of a FTTC, FTTH and VDSL network.

The examiner takes Official Notice to use of a FTTC, FTTH and VDSL network for distributing interactive television services.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the distribution networks, as taught by Watts, using a FTTC, FTTH or VDSL network, as taught by the examiner's Official Notice, for the

purpose of providing a faster and more reliable network distribution system for distribution interactive television services.

Referring to claims 48-50, see the rejection of claims 18-20, respectively.

Referring to claims 76-78, see the rejection of claims 18-20, respectively.

Referring to claim 41, Watts discloses all of the limitations of claim 40, as well as combining the alternate/subsidiary data with the television program/primary content and transmitting the data together, but fails to teach using a multiplexing technique to combine the data together prior to transmission.

The examiner takes Official Notice to the use of multiplexing in order to combine multiple pieces of data together for transmission through a 6 MHz television channel.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the transmission system, as taught by Watts, to include a multiplexer, as taught by the examiner's Official Notice, for the purpose of allowing more data to be transmitted over a television distribution network.

Claims 14, 44 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watts et al. (U.S. Patent No. 6,324,694) in view of Pack et al. (U.S. Patent No. 7,337,457).

Referring to claim 14, Watts discloses all of the limitations in claim 11, but fails to teach that the hot key signal comprises an IP data packet, the IP data packet having a

header portion and a body portion, the body portion having a data field indicating a URL where the alternate content is located.

Pack discloses a similar system to Watts where a viewer can watch a television program and respond to alternate content displayed to the user during the viewing of the television program (**see Abstract**). Pack also discloses that the hot key signal comprises an IP data packet, the IP data packet having a header portion and a body portion, the body portion having a data field indicating a URL where the alternate content is located (**see Column 5, Line 43 through Column 8, Line 59**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the hot key signal, as taught by Watts, to include TCP/IP encapsulated URL data, as taught by Pack, for the purpose of allowing a viewer to obtain shopping information for a desirable product which was displayed in program presentation without causing an interruption in the viewing of a television program (**see Column 2, Lines 32-37 of Pack**).

Referring to claims 44 and 72, see the rejection of claim 14.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2421

Jason P Salce
Primary Examiner

Art Unit 2421

December 15, 2008